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Report of the Working Group on the Universal Periodic Review*

Georgia

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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Response of Georgia to the remaining 54 recommendations

1. Georgia welcomes the recommendations made in the course of the 2nd cycle of the Universal Periodic Review that took place in Geneva on 10 November 2015. During the review, Georgia has received 203 recommendations. 142 recommendations enjoyed the support of Georgia and 7 recommendations were noted during the adoption of the Working Group Report on 12 November 2015.

2. Subsequent to the review, Georgia has carefully reviewed the remaining 54 recommendations formulated during the interactive dialogue in consultation with relevant agencies and stakeholders, including the Office of the Public Defender of Georgia and civil society representatives. The position of Georgia with respect to those recommendations is given below.

Recommendation	*State position*	*Comments*
118.1	Noted	Although, Georgia has already accepted recommendations as regards the accession to ICPPED, the recognition of the competence of the committee will be decided following the completion of the internal consultations with the relevant agencies.
118.2	Accepted	
118.3	Accepted	According to the paragraph 3^1 of the Article 53 (General principles of imposition of punishment) of the Criminal Code of Georgia (CCG), commission of a crime on the grounds of race, colour, language, sex, sexual orientation, gender identity, age, religion, political or other beliefs, disability, citizenship, national, ethnic or social origin, material status or rank, place of residence or other discriminatory grounds shall constitute an aggravating circumstance for all the relevant crimes provided for by this Code. In addition, the draft amendments to the CCG have been prepared which include revision of Article 142^1 (Racial Discrimination) of CCG to establish criminal liability for public incitement of acts against equality or those triggering violence or hostility due to one's affiliation to any of the aforementioned groups, which could have caused substantial damage.
118.4, 118.5	Accepted	On 1 January, 2016, legislative amendments entered into force restricting minimum age of marriage at 18 without any exception.
118.6	Accepted	

118.7	Accepted	Although, Georgia supports the recommendation, the definition of the "Commission of Human Rights and Integration" needs clarification. We suppose that it might be the Inter-Agency Commission for the implementation of the Civic Integration State Strategy. The Civic Equality and Integration State Strategy and respective Action Plan for 2015-2020 defines specific mechanisms and timelines for monitoring and evaluation. The State Inter-Agency Commission will be created to monitor and report on the implementation of strategy goals and activities, which will be coordinated by the Office of the State Minister of Georgia for Reconciliation and Civic Equality. Members of the Commission will include all major state institutions which have assumed relevant responsibilities according to the Strategy and Action Plan. Thematically relevant working groups will continue to operate within the Inter-Agency Commission. Quantitative and qualitative assessment of the implementation of the policy document is envisaged. Monitoring will be provided by the Council of National Minorities functioning at Public Defender's Office. Financial support of the activities planned in the Action Plan will be provided by the state agencies within their profile and competence.
118.8	Accepted	Partially Implemented. The legislation was amended in 2015 to grant Public Defender and the members of National Preventive Mechanism the right to take photos in the penitentiary establishments during their unrestricted monitoring visits. A Ministerial Order regulating the rules and procedures is being developed in close cooperation with the office of the Public Defender and shall be adopted in the second quarter of 2016 in order to ensure implementation of this right by September 1, 2016. At the same time close cooperation with PDO continues to ensure solid follow-up and implementation of its recommendations through practical measures.
118.9	Accepted	
118.10	Noted	Considering need for country-wide coverage, case-load and need for integrated response to this type of crime, Georgia believes that establishment of a single specialized police unit will not be sufficient mechanism for successful investigation of hate crimes. Therefore, the Ministry of Internal Affairs of Georgia undertakes to identify, assign the task to and train specialized police officers for hate crime investigation in all regional police departments.

118.11	Accepted	In 2014, the Prosecution Service of Georgia elaborated and disseminated to prosecutors the Handbook containing the standards of the European Convention on Human Rights on the use of detentions; the document serves as a guideline for prosecutors on the application of custodial measure of constraint. In July 2015, the Parliament passed amendments to the Criminal Procedure Code to introduce periodic automatic judicial review of pre-trial detention. A presiding judge has to review the necessity of pre-trial detention at least once in two months and should order release of a defendant if no compelling reason for continued detention is found. In 2015 the Prosecution Service of Georgia in association with the Council of Europe and the European Union carried out extensive trainings of all prosecutors in reasoning of the requests for pre-trial detentions in line with ECHR and national legislation.
118.12	Accepted	
118.13	Accepted	
118.14	Accepted	
118.15, 118.16	Accepted	Already implemented. In order to strengthen existing monitoring mechanism, the Ministry of Internal Affairs has established a special commission to supervise and enhance police responses on DV cases. It is envisaged in the relevant legislation as well. In order to strengthen existing monitoring mechanism, the Ministry of Internal Affairs runs separate statistics and analytics for DV and special commission to supervise and enhance police responses on DV cases has been established. Along this, the Ministry of Internal Affairs has identified and trained number of police officers throughout country working on gender based violence cases including domestic violence.
118.17	Accepted	The Migration Strategy for 2016-2020 and its Action Plan for 2016-2017 adopted in December 2015 ensure the precise actions to promote prevention of illegal migration. Common Information Strategy on Combating Human Trafficking determines the target groups and means of preventive activities. Interagency Council on Combating Trafficking in Persons monitors the implementation of the Strategy. Within the framework of the Strategy information meetings are permanently organized, multi-lingual leaflets are produced and widely disseminated, etc. Implementation of the Strategy is monitored and promoted by the Interagency Council on Combating Human Trafficking. Furthermore, in 2015 the Law on Labor Migration was enacted to promote the legal labor migration and prevent illegal migration, including human trafficking. Apart from this, the Law on the Legal Status of Foreigners and Stateless Persons adopted in 2014 promotes the prevention of illegal migration.

118.18	Noted	
118.19	Accepted	The third wave of legislative initiatives to reform judiciary, which are being considered by the Parliament, is focused on creating greater guarantees for independence of judges and ensuring transparency of judicial proceedings.
118.20	Accepted	The third wave of judicial reform includes legislative amendments to ensure and enhance transparency of the High Council of Justice by obliging it to publish at the Council's website information about its decisions, the dates and agenda of its sittings, and any other relevant information related to its activities.
118.21	Accepted	The third wave of judicial reform includes provisions to introduce principle of computer-based random assignment of cases to judges.
118.22	Accepted	See paras.118.19 to 118.21.
118.23	Accepted	On September 18, 2015, the Parliament passed amendments to the law on Prosecution Service which were appraised by the Venice Commission and other international institutions as step in the right direction. Three brand new institutes were introduced to ensure depoliticization, independence and accountability of the prosecution service, including the Prosecutorial Council, the Conference of Prosecutors and the special *(ad hoc)* prosecutor to investigate crime allegedly committed by the chief prosecutor. The Prosecutorial Council consists of the prosecutors elected by their peers, as well as representatives of all the three branches of the government and civil society. The procedures for the appointment of and removal from office of the Chief Prosecutor were fundamentally improved to make the process open and transparent to the public. In particular, the chief prosecutor will be proposed by the Prosecutorial Council and will be elected by the Parliament. Further steps to reform the prosecution service are being contemplated.
118.24	Accepted	Within the third stage of the reform of judiciary the rules on judicial appointments will be improved – the criteria for the appointment of judges will be determined on legislative level and the principle of open competition for every candidate will be introduced. Also please refer to paras. 118.19 to 118.21.
118.25	Accepted	The Criminal Procedure Code ensures a fundamental right of every defendant to see his/her lawyer without any restriction. In 2013, the Parliament lifted a ban upon a defence lawyer to appeal the court's decision on pretrial detention without his/her client's approval, which ban used to compel the lawyers to get signatures from their clients in 48 hours available for appealing pretrial detention. In addition, Georgia has established a strong, professional and independent system of free legal aid and any defendant that cannot afford a lawyer by contract is able to use their services.

118.26	Accepted	Right of a defendant to silence and not to incriminate himself-herself and his/her close relatives is an established right under the Constitution and the Criminal Procedure Code. Similarly, no witness may be compelled to testify against himself/herself and his/her close relatives. Moreover, in December 2015, the Parliament passed amendments to the Criminal Procedure Code whereby it abolished a compulsory witness testimony to investigator or prosecutor. Instead, a voluntary witness interview was introduced as a basic rule. In exceptional cases, a witness may be examined before a magistrate judge at the investigative stage.
118.27, 118.28, 118.29, 118.30, 118.31	Accepted	The Georgian legal framework ensures independent and effective investigation of the facts of torture and ill-treatment. All facts of alleged torture or other inhuman or degrading treatment is subject to immediate and thorough investigation conducted by the competent law enforcement authorities. The commitment to establish thorough, transparent, independent and effective investigative mechanism is manifested in the EU-Georgia Association Agenda, the National Human Rights Strategy and the Action Plan, and reaffirmed in the newly adopted anti-torture action plan. At the meeting (held on 18 May 2015) the council decided that the line ministries will thoroughly analyze the principles upon which the investigation mechanism can be based on. The comments of the relevant agencies were collected by the secretariat and the follow up meeting was held on 23 October 2015 to progress in reaching common ground and chart the way ahead.
118.32	Accepted	
118.33	Accepted	Since 2011 the Public Service Development Agency of the Ministry of Justice of Georgia has been implementing activities to promote registration of Roma population and ensure legal support to respective Roma people. The Government of Georgia affirms that the State Strategy on Civic Equality and Integration and its respective Action Plan for 2015-2020 includes the activity such as undertaking appropriate measures for the documentation of persons without birth certificates and identity cards.
118.34, 118.35	Accepted	Having Accepted these recommendations, Georgia emphasizes that the Georgian State is not a legal successor of the Soviet Totalitarian regime and does not bear any legal obligation to restitute any damages caused by such and also, in the Georgian legislation there are no legal provisions or any base for restitution, accordingly the policy of the state will be implemented under it's discretion and in accordance with the standards recognized by international Human Rights Law.
118.36	Accepted	

118.37	Accepted	Implemented.
118.38	Accepted	Georgia will take efforts to encourage a stronger participation of women and ethnic minorities in political decision-making processes. The Working Group on Ethnic Minority Issues within the Central Election Commission of Georgia ensures equal and active participation of ethnic minorities in the elections processes. Currently, 8 ethnic minority persons are represented in the Georgian Parliament. The representation of ethnic Armenians in Samtskhe-Javakheti region and of ethnic Azerbaijanis in Kvemo Kartli region councils is proportional to the percentage of the population in those regions. The new Civic Integration Strategy envisages specific activities in the area of improving participation of ethnic minorities in political decision making. They include: creation of a special working group on ethnic minorities' political participation within the State Inter-agency Commission; consultations with international organizations and experts on best practices on minorities' political participation in the European countries; active interaction/cooperation with the political parties (experience sharing), awareness-raising campaign on political participation of ethnic minorities in the society.
118.39	Accepted	
118.40	Accepted	
118.41	Accepted	Strengthening material and child health is one of the main priorities of the Social-Economic Development Strategy of Georgia "Georgia 2020" adopted on 17 June 2014 by the Georgian Government.
118.42, 118.43	Accepted	
118.44	Accepted	
118.45	Accepted	
118.46	Accepted	Implemented. According to the Georgian legislation, general education is accessible for all regardless of citizenship. The Ministry also undertakes all necessary steps to encourage school attendance of girls.
118.47	Accepted	

118.48	Accepted	The main strategic goals of civic equality and integration state strategy are as follows: • Representatives of ethnic minorities participate equally and fully in the civic and political life; • Equal social and economic conditions and opportunities are created for ethnic minority representatives; • Representatives of ethnic minorities have access to high quality education at all levels and the level of the state language knowledge is improved; • Culture of ethnic minorities is preserved and tolerant environment is encouraged. Various programs, projects and activities are planned and implemented in order to accomplish the abovementioned goals.
118.49	Accepted	
118.50	Noted	According to the Georgian legislation, development of educational programmes is exclusively the right and obligation of the country. There is already in place 5 credit programme for training and professional development of ethnic minority teachers. However, the Ministry of Education and Science stands ready to collaborate with its Armenian counterparts during development of module of Armenian language and literature.
118.51	Accepted	Georgia cannot accept the term "Meskhetian Turks" mentioned in Recommendations 118.51 and 118.52. The commitments undertaken by the Government with the accession to the Council of Europe, indicates the term Meskhetian population, since the majority of people who were forcefully sent into exile from Samtskhe-Javakheti, Georgia by the USSR in 1944 were Georgians by ethnicity, among whom there were Muslim Meskhetians, Turks, Khemshils, Kurds, Kharapapakhs, Tarakans, Roma People, as well as Muslim Georgians settled from Adjara, Georgia to Meskheti, Georgia in 1930s. Hence, it is not appropriate to use the term "Meskhetian Turks". The drafting process of the Action Plan of the adopted "State strategy of Repatriation of Persons forcefully sent into exile from the SSRG by the Former USSR in the 40's of the 20th Century" has been completed, going inter-institutional processes and will be presented to the Government for the approval in near future.
118.52	Noted	The Georgian side considers that two-year limitation, applicable to the Muslim Meskhetians who has been granted the conditional Georgian citizenship, is proportional in order to relinquish any other citizenship previously held.

118.53	Accepted	Implemented. The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia closely cooperates with international and local non-governmental organizations working on IDP issues, as well as the Public Defender's Office. With their active involvement, the commission established within the Ministry makes the decisions on the DHS for IDPs and elaborates on legal regulations. Every major decision or a launch of a project is preceded by consultations with initiative groups of IDPs in different regions.
118.54	Accepted	Implemented. Unlawful and forced eviction of IDPs is prohibited and protected by the Georgian legislation. All evictions carried out in 2013-2015 are voluntary and all IDP families concerned are maximally informed and all evicted families are provided with alternative housing solutions.